

LATHROP & GAGE L.C.
 Thomas H. Curtin (TC-5753)
 Andrew J. Sanders (AS-9962)
 230 Park Avenue, Suite 1847
 New York, New York 10169
 (212) 850-6220 (Telephone)
 (212) 850-6221 (Facsimile)

Attorneys for Plaintiff and Counterclaim Defendant

IN THE UNITED STATES DISTRICT COURT
 FOR THE SOUTHERN DISTRICT OF NEW YORK

-----X	:	
MADELINE WEINRIB,	:	
	:	08 Civ. 5695 (HB)(FM)
Plaintiff and Counterclaim Defendant,	:	
	:	REPLY
-against-	:	<u>TO COUNTERCLAIMS</u>
	:	
WILLIAMS-SONOMA, INC., d/b/a	:	ECF CASE
Pottery Barn and d/b/a West Elm,	:	
POTTERY BARN, INC., and	:	
WEST ELM, INC.,	:	
	:	
Defendants and Counterclaimants.	:	
-----X	:	

Plaintiff and Counterclaim Defendant, Madeline Weinrib ("Plaintiff"), by her undersigned attorneys, replies to the Counterclaims of Defendants and Counterclaim Plaintiffs, Williams-Sonoma, Inc., Pottery Barn, Inc. and West Elm, Inc. (collectively "Defendants") as follows:

As to "FIRST COUNTERCLAIM"
(Cancellation of Copyright Registration)

1. Plaintiff notes that Defendants' Counterclaims begins with "Paragraph 65" entitled "First Counterclaim: Cancellation of Copyright Registration" and includes by reference all responsive pleadings and affirmative defenses asserted by Defendants and, as such, Plaintiff

denies each and every factual allegation or conclusion of law made therein by Defendants other than those statements made in the Plaintiff's Complaint and admitted in Defendants' responsive pleadings.

2. Plaintiff denies each and every allegation made in Paragraph 66 of the First Counterclaim.

3. Plaintiff denies each and every allegation made in Paragraph 67 of the First Counterclaim.

4. Plaintiff denies each and every allegation made in Paragraph 68 of the First Counterclaim.

**As to "SECOND COUNTERCLAIM"
(Declaratory Relief)**

5. In response to Paragraph 69 entitled "Second Counterclaim: Declaratory Relief" which includes by reference all responsive pleadings and affirmative defenses asserted by Defendants, Plaintiff denies each and every factual allegation or conclusion of law made therein by Defendants other than those statements made in the Plaintiff's Complaint and admitted in Defendants' responsive pleadings.

6. Plaintiff admits that Weinrib has a valid copyright in the subject matter covered by Plaintiff's U.S. Visual Arts Copyright Registration Numbers VA 1-355-210 and VA 1-626-901, entitled "BROOKE in Blue" and "BROOKE in Orange" respectively, and, except as so admitted, denies each and every remaining allegation made in Paragraph 70 of the Second Counterclaim.

7. Plaintiff admits that there exists a ripe, justiciable dispute as to whether WSI has infringed Plaintiff's copyrights as set forth in Plaintiff's Complaint and, except as so admitted, denies each and every remaining allegation made in Paragraph 71 of the Second Counterclaim.

AFFIRMATIVE DEFENSES

FIRST DEFENSE

Defendants' Counterclaims fail to state a cause of action upon which relief may be granted.

SECOND DEFENSE

The Court lacks subject matter jurisdiction over this dispute.

THIRD DEFENSE

Defendants' Counterclaims are barred, in whole or in part, by the doctrines of waiver, unclean hands, estoppel and/or laches.

WHEREFORE, Plaintiff requests judgment against Defendants dismissing with prejudice all Counterclaims; awarding Plaintiff her costs and attorneys' fees; and such other, further and different relief as the Court may deem just and proper.

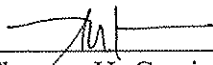
JURY DEMAND

Plaintiff hereby demands a trial by jury on the Counterclaims pursuant to Fed. R. Civ. P. 38.

Dated: New York, New York
September 2, 2008

Respectfully submitted,

LATHROP & GAGE L.C.

By: 
Thomas H. Curtin (TC-5753)
Andrew J. Sanders (AS-9962)

230 Park Avenue, Suite 1847
New York, New York 10169
(212) 850-6220 (tel)
(212) 850-6221 (fax)

*Attorneys for Plaintiff/Counterclaim Defendant
Madeline Weinrib*